IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 513 OF 2004
IN
WRIT PETITION NO. 1952 OF 2003

M/s. Bharat Kumar Motilal & Co. ... Petitioner

V/s

Shri Balu Baburao Mhatre ... Respondent

Mr. Bhavin H. Gada i/by C.R.Naidu & Co. for the petitioner.

Mr. Rajesh Gehani for the respondent/applicant in notice of motion.

CORAM: P.V. KAKADE, J.

DATED: 29TH NOV., 2005

P.C.:

1. Heard both sides.

2. The advocate for the applicant submits that some mistakes have occurred due to his inadvertence in respect of facts in the contents of the petition and, therefore, he seeks permission to withdraw the notice of motion with liberty to file it afresh. On the other hand, the advocate for the respondent/petitioner submits that the so called error is nothing less than perjury

and, therefore, the matter should be referred to the Criminal Court for necessary action.

3. In view of the facts and circumstances, the question of referring the matter to the Criminal Court for action on the ground of perjury is ruled out as the ingredients of perjury are not apparent from the record. Under the circumstances, the applicant is allowed to withdraw the motion with liberty to file it afresh.

With this direction, the notice of motion stands disposed of with no order as to costs.

.....